

§ 143-215.104F. (Expires January 1, 2022 – see notes) Requirements for certification, assessment agreements, and remediation agreements.

(a) General Requirements. – Any person petitioning for certification of a facility or an abandoned site pursuant to G.S. 143-215.104G, for a dry-cleaning solvent assessment agreement pursuant to G.S. 143-215.104H, or for a dry-cleaning solvent remediation agreement pursuant to G.S. 143-215.104I, shall meet the requirements set out in this section and any other applicable requirements of this Part.

(a1) Application Fees. – Each person petitioning or co-petitioning for certification of a facility or an abandoned site pursuant to G.S. 143-215.104G shall pay an application fee of one thousand dollars (\$1,000) to the Commission.

(b) Requirements for Potentially Responsible Persons Generally. – Every petitioner shall provide the Commission with:

- (1) Any information that the petitioner possesses relating to the contamination at the facility or abandoned site described in the petition.
- (2) Information necessary to demonstrate the person's ability to incur the response costs specified in subsection (f) of this section.
- (3) Repealed by Session Laws 2000, c. 19, s. 3, effective on and after April 1, 1998.
- (4) Information necessary to demonstrate that the petitioner, and any parent, subsidiary, or other affiliate of the petitioner, has substantially complied with:
 - a. The terms of any dry-cleaning solvent assessment agreement, dry-cleaning solvent remediation agreement, brownfields agreement, or other similar agreement to which the petitioner or any parent, subsidiary, or other affiliate of the petitioner has been a party.
 - b. The requirements applicable to any remediation in which the petitioner has previously engaged.
 - c. Federal and State laws, regulations, and rules for the protection of the environment.
- (5) Evidence demonstrating that a release of dry-cleaning solvent has occurred at the facility or abandoned site and that the release has resulted in dry-cleaning solvent contamination.

(c) Requirement for Property Owners. – In addition to the information required by subsection (b) of this section, a petitioner who is the owner of the property on which the dry-cleaning solvent contamination identified in the petition is located shall provide the Commission a written agreement authorizing the Commission, its agent, and its private contractor to have access to the property for purposes of conducting assessment or remediation activities or determining whether assessment or remediation activities are being conducted in compliance with this Part and any assessment agreement or remediation agreement.

(c1) Costs incurred by the petitioner for activities to obtain certification of a facility or abandoned site shall not be reimbursable from the Fund.

(d) The Commission may reject any petition made pursuant to this Part in any of the following circumstances:

- (1) The petitioner is an owner or operator of the facility described in the petition and the facility was not being operated in compliance with minimum management practices adopted by the Commission pursuant to G.S. 143-215.104D(b)(2) at the time the contamination was discovered.
- (2) The petitioner is an owner or operator of the facility described in the petition and the petitioner owed delinquent taxes under Article 5D of Chapter 105 of

the General Statutes at the time the dry-cleaning solvent contamination was discovered.

- (3) Repealed by Session Laws 2000, c. 19, s. 3, effective on and after April 1, 1998.
- (4) The petitioner fails to provide the information required by subsection (b) of this section.
- (5) The petitioner falsified any information in its petition that was material to the determination of the priority ranking, the nature, scope and extent of contamination to be assessed or remediated, or the appropriate means to contain and remediate the contaminants.

(e) Repealed by Session Laws 2007-530, s. 4, effective August 31, 2007.

(f) Financial Responsibility Requirements. – Each potentially responsible person who petitions the Commission to certify a facility or abandoned site shall accept written responsibility in the amount specified in this section for the assessment or remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners. The financial responsibility required shall be as follows:

- (1) For dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, one percent (1%) of the costs of assessment or remediation not exceeding one million dollars (\$1,000,000).
- (2) For abandoned dry-cleaning facility sites and for dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, one and one-half percent (1.5%) of the costs of assessment or remediation not exceeding one million dollars (\$1,000,000).
- (3) For wholesale distribution facilities and for dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the calendar year preceding the date of the petition, two percent (2%) of the costs of assessment or remediation not exceeding one million dollars (\$1,000,000).
- (4) Repealed by Session Laws 2007-530, s. 4, effective retroactively to August 1, 2001, and applicable to assessment agreements and remediation agreements entered into on or after that date.

(g) Repealed by Session Laws 2000, c. 19, s. 3, effective on and after April 1, 1998. (1997-392, s. 1; 2000-19, ss. 3, 4, 7; 2007-530, s. 4.)